

AMENDED IN ASSEMBLY MARCH 20, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2130

Introduced by Assembly Member Pan
(Principal coauthor: Senator Yee)
(Coauthors: Assembly Members Bloom, Maienschein, and
Wieckowski)

February 20, 2014

An act to ~~amend~~ *repeal and add* Section 113961 of the Health and Safety Code, relating to food safety.

LEGISLATIVE COUNSEL'S DIGEST

AB 2130, as amended, Pan. Retail food safety.

Under existing law, the California Retail Food Code, the State Department of Public Health establishes uniform health and sanitation standards for retail food facilities and local health agencies are required to enforce these provisions. A person who violates any provision of the code is guilty of a misdemeanor. Existing law requires food employees to wash their hands in accordance with specified provisions and prohibits food employees from contacting exposed, ready-to-eat food with their bare hands, except under certain conditions, including when washing fruits and vegetables and when not serving a highly susceptible population, as specified.

This bill would ~~make technical, nonsubstantive changes to those provisions~~; *instead require that food employees minimize bare hand and arm contact with nonprepackaged food that is in a ready-to-eat form. The bill would require food employees to use utensils, as specified, to assemble ready-to-eat food or to place ready-to-eat food on tableware or in other containers. The bill would authorize food employees to*

assemble or place on tableware or in other containers ready-to-eat food in an approved food preparation area without using utensils if hands are cleaned in accordance with specified provisions. The bill would require that food that has been served to the consumer and then wrapped or prepackaged at the direction of the consumer be handled only with utensils. The bill would require these utensils to be properly sanitized before reuse. By revising the standards that are required to be enforced by local health agencies and changing the scope of an existing crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

*Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.*

The people of the State of California do enact as follows:

- 1 *SECTION 1. Section 113961 of the Health and Safety Code is*
- 2 *repealed.*
- 3 ~~113961. (a) Food employees shall wash their hands in~~
- 4 ~~accordance with the provisions established in Section 113953.3.~~
- 5 ~~(b) Except when washing fruits and vegetables, as specified in~~
- 6 ~~Section 113992 or as specified in subdivisions (e) and (f), food~~
- 7 ~~employees shall not contact exposed, ready-to-eat food with their~~
- 8 ~~bare hands and shall use suitable utensils such as deli tissue,~~
- 9 ~~spatulas, tongs, single-use gloves, or dispensing equipment.~~
- 10 ~~(c) Food employees shall minimize bare hand and arm contact~~
- 11 ~~with exposed food that is not in a ready-to-eat form.~~
- 12 ~~(d) Food that has been served to a consumer and then wrapped~~
- 13 ~~or packaged at the direction of the consumer, such as food placed~~
- 14 ~~in a take-home container, shall be handled only with utensils. These~~
- 15 ~~utensils shall be properly sanitized before reuse.~~

1 ~~(e) Subdivision (b) does not apply to a food employee who~~
2 ~~contacts exposed, ready-to-eat food with bare hands at the time~~
3 ~~the ready-to-eat food is being added as an ingredient to a food that~~
4 ~~meets either of the following:~~

5 ~~(1) Food that contains a raw animal food and is to be cooked in~~
6 ~~the food establishment to heat all parts of the food to the minimum~~
7 ~~temperatures specified in subdivisions (a) and (b) of Section~~
8 ~~114004 or in Section 114008.~~

9 ~~(2) Food that does not contain a raw animal food but is to be~~
10 ~~cooked in the food establishment to heat all parts of the food to a~~
11 ~~temperature of at least 165 degrees Fahrenheit.~~

12 ~~(f) Food employees not serving a highly susceptible population~~
13 ~~may contact exposed, ready-to-eat food with their bare hands if~~
14 ~~all of the following occur:~~

15 ~~(1) The permitholder obtains prior approval from the regulatory~~
16 ~~authority.~~

17 ~~(2) Written procedures are maintained in the food facility and~~
18 ~~made available to the regulatory authority upon request, that~~
19 ~~include all of the following:~~

20 ~~(A) For each bare hand contact procedure, a listing of the~~
21 ~~specific ready-to-eat foods that are touched by bare hands.~~

22 ~~(B) Diagrams and other information showing that handwashing~~
23 ~~facilities that are installed, located, and maintained in accordance~~
24 ~~with Sections 113953, 113953.1, and 113953.2, are in an easily~~
25 ~~accessible location and in close proximity to the work station where~~
26 ~~the bare hand contact procedure is conducted.~~

27 ~~(3) A written employee health policy that details the manner in~~
28 ~~which the food facility complies with Sections 113949, 113949.1,~~
29 ~~113949.2, 113949.3, 113949.4, 113949.5, 113950, and 113950.5,~~
30 ~~including all of the following:~~

31 ~~(A) Documentation that food employees acknowledge that they~~
32 ~~are informed to report information about their health and activities~~
33 ~~as they relate to gastrointestinal symptoms and diseases that are~~
34 ~~transmittable through food as specified in Section 113949.1.~~

35 ~~(B) Documentation that food employees acknowledge their~~
36 ~~responsibilities as specified in Section 113949.4.~~

37 ~~(C) Documentation that the person in charge acknowledges the~~
38 ~~responsibilities specified in Section 113949.5, subdivision (b) of~~
39 ~~Section 113950, and Section 113950.5.~~

~~(4) Documentation that food employees acknowledge that they have received training in all of the following:~~

~~(A) The risks of contacting the specific ready-to-eat foods with bare hands.~~

~~(B) Proper handwashing techniques and requirements, pursuant to subdivision (a) of Section 113953.3.~~

~~(C) Where to wash their hands, as specified in Section 113953.1.~~

~~(D) Proper fingernail maintenance, as specified in Section 113968.~~

~~(E) Prohibition of jewelry, as specified in subdivision (a) of Section 113973.~~

~~(F) Good hygienic practices, as specified in Sections 113974 and 113977.~~

~~(5) Documentation that hands are washed before food preparation and as necessary to prevent cross-contamination by food employees, as specified in Sections 113952, 113953.1, and 113953.3 during all hours of operation when the specific ready-to-eat foods are prepared.~~

~~(6) Documentation that food employees contacting ready-to-eat foods with bare hands use two or more of the following control measures to provide additional safeguards to hazards associated with bare hand contact:~~

~~(A) Double handwashing.~~

~~(B) Nail brushes.~~

~~(C) A hand antiseptic after handwashing, as specified in Section 113953.4.~~

~~(D) Incentive programs such as paid sick leave that assist or encourage food employees not to report to work if they are ill.~~

~~(E) Other control measures approved by the regulatory authority.~~

~~(7) Documentation that corrective action is taken when the requirements specified in paragraphs (1) to (6), inclusive, are not followed.~~

SEC. 2. Section 113961 is added to the Health and Safety Code, to read:

113961. (a) Food employees shall minimize bare hand and arm contact with nonprepackaged food that is in a ready-to-eat form.

(b) Food employees shall use utensils, including scoops, forks, tongs, paper wrappers, gloves, or other implements, to assemble ready-to-eat food or to place ready-to-eat food on tableware or

1 *in other containers. However, food employees may assemble or*
2 *place on tableware or in other containers ready-to-eat food in an*
3 *approved food preparation area without using utensils if hands*
4 *are cleaned in accordance with Section 113953.3.*

5 *(c) Food that has been served to the consumer and then wrapped*
6 *or prepackaged at the direction of the consumer shall be handled*
7 *only with utensils. These utensils shall be properly sanitized before*
8 *reuse.*

9 *SEC. 3. No reimbursement is required by this act pursuant to*
10 *Section 6 of Article XIII B of the California Constitution for certain*
11 *costs that may be incurred by a local agency or school district*
12 *because, in that regard, this act creates a new crime or infraction,*
13 *eliminates a crime or infraction, or changes the penalty for a crime*
14 *or infraction, within the meaning of Section 17556 of the*
15 *Government Code, or changes the definition of a crime within the*
16 *meaning of Section 6 of Article XIII B of the California*
17 *Constitution.*

18 *However, if the Commission on State Mandates determines that*
19 *this act contains other costs mandated by the state, reimbursement*
20 *to local agencies and school districts for those costs shall be made*
21 *pursuant to Part 7 (commencing with Section 17500) of Division*
22 *4 of Title 2 of the Government Code.*

23 ~~SECTION 1. Section 113961 of the Health and Safety Code~~
24 ~~is amended to read:~~

25 ~~113961. (a) Food employees shall wash their hands in~~
26 ~~accordance with the provisions established in Section 113953.3.~~

27 ~~(b) Except when washing fruits and vegetables, as specified in~~
28 ~~Section 113992 or as specified in subdivisions (e) and (f), food~~
29 ~~employees shall not contact exposed, ready-to-eat food with their~~
30 ~~bare hands and shall use suitable utensils, including deli tissue,~~
31 ~~spatulas, tongs, single-use gloves, or dispensing equipment.~~

32 ~~(c) Food employees shall minimize bare hand and arm contact~~
33 ~~with exposed food that is not in a ready-to-eat form.~~

34 ~~(d) Food that has been served to a consumer and then wrapped~~
35 ~~or packaged at the direction of the consumer, including food placed~~
36 ~~in a take-home container, shall be handled only with utensils. These~~
37 ~~utensils shall be properly sanitized before reuse.~~

38 ~~(e) Subdivision (b) does not apply to a food employee who~~
39 ~~contacts exposed, ready-to-eat food with bare hands at the time~~

1 the ready-to-eat food is being added as an ingredient to a food that
2 meets either of the following:

3 (1) ~~Food that contains a raw animal food and is to be cooked in~~
4 ~~the food establishment to heat all parts of the food to the minimum~~
5 ~~temperatures specified in subdivisions (a) and (b) of Section~~
6 ~~114004 or in Section 114008.~~

7 (2) ~~Food that does not contain a raw animal food but is to be~~
8 ~~cooked in the food establishment to heat all parts of the food to a~~
9 ~~temperature of at least 165 degrees Fahrenheit.~~

10 (f) ~~Food employees not serving a highly susceptible population~~
11 ~~may contact exposed, ready-to-eat food with their bare hands if~~
12 ~~all of the following occur:~~

13 (1) ~~The permitholder obtains prior approval from the regulatory~~
14 ~~authority.~~

15 (2) ~~Written procedures are maintained in the food facility and~~
16 ~~made available to the regulatory authority upon request, that~~
17 ~~include all of the following:~~

18 (A) ~~For each bare hand contact procedure, a listing of the~~
19 ~~specific ready-to-eat foods that are touched by bare hands.~~

20 (B) ~~Diagrams and other information showing that handwashing~~
21 ~~facilities that are installed, located, and maintained in accordance~~
22 ~~with Sections 113953, 113953.1, and 113953.2, are in an easily~~
23 ~~accessible location and in close proximity to the work station where~~
24 ~~the bare hand contact procedure is conducted.~~

25 (3) ~~A written employee health policy that details the manner in~~
26 ~~which the food facility complies with Sections 113949, 113949.1,~~
27 ~~113949.2, 113949.3, 113949.4, 113949.5, 113950, and 113950.5,~~
28 ~~including all of the following:~~

29 (A) ~~Documentation that food employees acknowledge that they~~
30 ~~are informed to report information about their health and activities~~
31 ~~as they relate to gastrointestinal symptoms and diseases that are~~
32 ~~transmittable through food as specified in Section 113949.1.~~

33 (B) ~~Documentation that food employees acknowledge their~~
34 ~~responsibilities as specified in Section 113949.4.~~

35 (C) ~~Documentation that the person in charge acknowledges the~~
36 ~~responsibilities specified in Section 113949.5, subdivision (b) of~~
37 ~~Section 113950, and Section 113950.5.~~

38 (4) ~~Documentation that food employees acknowledge that they~~
39 ~~have received training in all of the following:~~

1 (A) ~~The risks of contacting the specific ready-to-eat foods with~~
2 ~~bare hands.~~

3 (B) ~~Proper handwashing techniques and requirements, pursuant~~
4 ~~to subdivision (a) of Section 113953.3.~~

5 (C) ~~Where to wash their hands, as specified in Section 113953.1.~~

6 (D) ~~Proper fingernail maintenance, as specified in Section~~
7 ~~113968.~~

8 (E) ~~Prohibition of jewelry, as specified in subdivision (a) of~~
9 ~~Section 113973.~~

10 (F) ~~Good hygienic practices, as specified in Sections 113974~~
11 ~~and 113977.~~

12 (5) ~~Documentation that hands are washed before food~~
13 ~~preparation and as necessary to prevent cross-contamination by~~
14 ~~food employees, as specified in Sections 113952, 113953.1, and~~
15 ~~113953.3 during all hours of operation when the specific~~
16 ~~ready-to-eat foods are prepared.~~

17 (6) ~~Documentation that food employees contacting ready-to-eat~~
18 ~~foods with bare hands use two or more of the following control~~
19 ~~measures to provide additional safeguards to hazards associated~~
20 ~~with bare hand contact:~~

21 (A) ~~Double handwashing.~~

22 (B) ~~Nail brushes.~~

23 (C) ~~A hand antiseptic after handwashing, as specified in Section~~
24 ~~113953.4.~~

25 (D) ~~Incentive programs, including paid sick leave, that assist~~
26 ~~or encourage food employees not to report to work if they are ill.~~

27 (E) ~~Other control measures approved by the regulatory authority.~~

28 (7) ~~Documentation that corrective action is taken when the~~
29 ~~requirements specified in paragraphs (1) to (6), inclusive, are not~~
30 ~~followed.~~